



2. Petitioner was arrested on December 27, 2015, and has been in continuous custody at the [REDACTED] since that time. (Testimony of Petitioner)
3. On February 17, 2016, the agency sent the Petitioner a notice, advising him that his FoodShare benefits would be ending effective March 1, 2016, because he is incarcerated. (Exhibit 4)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on February 29, 2016. (Exhibit 1)

### **DISCUSSION**

It is undisputed that the Petitioner has been incarcerated in a county jail from December 27, 2015, to the present.

The FoodShare Handbook discusses the effects of incarceration on FoodShare eligibility:

#### **3.2.1.2.2 Incarceration and Huber Law Prisoners**

An individual who is incarcerated for more than 30 days is ineligible for FoodShare unless they meet all the Huber criteria listed below.

Huber law prisoners who are released from confinement for the purpose of caring for members of their family, and who purchase and prepare meals with their family members can still be included in the FS Unit and may be eligible for FoodShare benefits. The prisoner must meet all financial and non-financial eligibility requirements.

A Huber Law prisoner is caring for his/her family if s/he meets all the following criteria:

1. Intends to return home after his or her confinement.
2. Continues to exercise care and control of his or her children.
3. Continues to plan for the support and care of his or her children.
4. Is released to attend to the needs of his/her family and to purchase or prepare meals with his/her family.

At the time the agency issued the notice of decision in mid-February, the Petitioner had been in custody for more than 30-days. There is no assertion and no evidence that the Petitioner was granted Huber Release to care for his family. As such, the Petitioner was not eligible for benefits.

### **CONCLUSIONS OF LAW**

The agency correctly ended the Petitioner's FoodShare benefits effective March 1, 2016.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 18th day of April, 2016.

---

\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 18, 2016.

Ozaukee County Department of Social Services  
Division of Health Care Access and Accountability